

# IRS News Release

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## Courts Fine Taxpayers for Frivolous Collection Cases, IRS Warns

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WASHINGTON — Taxpayers who improperly use the courts to delay tax collections are paying a stiff price, according to the Internal Revenue Service.

In published cases since the beginning of 2004, the U.S. Tax Court imposed penalties totaling \$117,500 against taxpayers for pursuing frivolous cases to delay tax collections. This brings the total penalties in such cases since 2001 to \$378,900. In addition, Appeals courts in the Second, Ninth, and Tenth Circuits upheld six earlier Tax Court decisions assessing penalties totaling \$15,600.

"Taxpayers have rights they should use when appropriate," said Kevin M. Brown, commissioner of the IRS Small Business/Self-Employed Division. "But anyone who abuses those rights should understand they can incur significant penalties."

The IRS Restructuring and Reform Act of 1998 set forth various taxpayer rights related to tax liens or levies, including the right to seek judicial review. However, the Tax Court may impose sanctions of up to \$25,000 on those who misuse their right to a court review merely to stall their tax payments. For example, the court imposed the maximum penalty in *Kolker v. Commissioner*, T.C. M. 2004-288. Noting that the taxpayer had filed multiple court actions and appeals, the Tax Court stated that he had "repeatedly wasted the Federal tax system's resources and his conduct deserves an appropriate and severe sanction."

Ordinarily, the IRS may not enforce collection while one of these Collection Due Process appeals is pending. But in an April 2005 decision, the Tax Court, for the first time, allowed the IRS to pursue collection even though an appeal had been filed. In *Burke v. Commissioner*, 124 T.C. No. 11, the court permitted the IRS to proceed with a levy, agreeing that the "taxpayer had used the collection review procedure to espouse frivolous and groundless arguments and otherwise needlessly delay collection."

The Tax Court also disposes of many cases by unpublished order after granting the government's motion for summary judgment against the taxpayer. These motions increasingly include sanctions under this part of the law (section 6673 of the Internal Revenue Code).

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The IRS Web site document, *The Truth about Frivolous Tax Arguments*, includes a section devoted to Collection Due Process cases. It presents 16 frivolous assertions, along with a summary of the law and relevant cases involving these false claims.

### Additional Information:

- [IR-2004-41](http://www.irs.gov/newsroom/article/0,,id=121380,00.html) — Stiff Court Penalties for Frivolous Appeals to Delay IRS Collections, <http://www.irs.gov/newsroom/article/0,,id=121380,00.html>
- [IR-2003-28](http://www.irs.gov/newsroom/article/0,,id=107987,00.html) — Frivolous Appeals to Delay Collection Bring Stiff Tax Court Penalties, <http://www.irs.gov/newsroom/article/0,,id=107987,00.html>
- The Truth about Frivolous Tax Arguments — <http://www.irs.gov/pub/irs-utl/frivolousarguments-3-14-2005.pdf>
- Publication 1660, Collection Appeal Rights — <http://www.irs.gov/pub/irs-pdf/p1660.pdf>
- [U.S. Tax Court: Historical Opinions](http://www.ustaxcourt.gov/UstclnOp/asp/HistoricOptions.asp) — use the taxpayer's name to search for case opinions from the first table below — <http://www.ustaxcourt.gov/UstclnOp/asp/HistoricOptions.asp>

### Section 6673 Penalties Imposed by U.S. Tax Court in Published Collection Due Process Cases Since the Beginning of 2004

[T.C.M. = Tax Court Memorandum Decision]

[T.C. = Tax Court Opinion]

<b>Case</b>	<b>State</b>	<b>Citation</b>	<b>Date</b>	<b>Penalty</b>
<i>Poe v. Commissioner</i>	OH	T.C.M. 2005-107	05/16/05	\$2,000
<i>Krueger v. Commissioner</i>	GA	T.C.M. 2005-105	05/11/05	\$1,500
<i>Howard v. Commissioner</i>	AZ	T.C.M. 2005-100	05/09/05	\$10,000
<i>Williams v. Commissioner</i>	NE	T.C.M. 2005-94	04/25/05	\$5,000*
<i>Lehmann v. Commissioner</i>	AZ	T.C.M. 2005-90	04/25/05	\$2,500
<i>Burke v. Commissioner</i>	AZ	124 T.C No. 11	04/12/05	\$2,500
<i>Kilgore v. Commissioner</i>	MA	T.C.M. 2005-24	02/15/05	\$10,000
<i>Kolker v. Commissioner</i>	CA	T.C.M. 2004-288	12/29/04	\$25,000
<i>Gavigan v. Commissioner</i>	CT	T.C.M. 2004-155	11/10/04	\$2,000
<i>Yazzie v. Commissioner</i>	AZ	T.C.M. 2002-233	10/13/04	\$2,000
<i>Hiland v. Commissioner</i>	AZ	T.C.M. 2004-255	10/06/04	\$1,000
<i>Johnston v. Commissioner</i>	AZ	T.C.M. 2004-224	10/05/04	\$3,000
<i>Hamzik v. Commissioner</i>	NV	T.C.M. 2004-223	10/05/04	\$15,000
<i>Gilligan v. Commissioner</i>	CA	T.C.M. 2004-194	08/30/04	\$5,000
<i>Gatlos v. Commissioner</i>	PA	T.C.M. 2004-102	08/26/04	\$2,000
<i>Henderson v. Commissioner</i>	AR	T.C.M. 2004-157	07/01/04	\$15,000
<i>Jensen v. Commissioner</i>	AK	T.C.M. 2004-120	05/17/04	\$10,000
<i>Frey v. Commissioner</i>	VA	T.C.M. 2004-87	03/30/04	\$4,000

\*sua sponte

### **2004/2005 Appeals Court Actions Affirming Tax Court Sanctions**

**Adams v. Commissioner** — 95 A.F.T.R2d 2005-1862 (9<sup>th</sup> Cir. April 12, 2005), \$1,000 sanction by Tax Court affirmed plus Court of Appeals imposed additional \$2,000 sanction.

**Boyd v. United States** — 2005 US App. Lexis 1658 (10<sup>th</sup> Cir.), \$2,500 sanction by Tax Court affirmed.

**Cardona v. Commissioner** — 2004 US App. Lexis 25259 (2d Cir.), \$1,000 sanction by Tax Court affirmed.

**Hobbs v. Commissioner** — 2004 US App. Lexis 19504 (9<sup>th</sup> Cir.), \$2,500 sanction by Tax Court affirmed.

**Holguin v. Commissioner** — 2004 US App. Lexis 17848 (9<sup>th</sup> Cir.), \$1,600 sanction by Tax Court affirmed.

**Le Doux v. Commissioner** — 2004 US App. Lexis 13262 (10<sup>th</sup> Cir.), \$5,000 sanction by Tax Court affirmed.